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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,711	02/25/2002	Yoshio Itou	111091	8444

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EXAMINER

LEWIS, TISHA D

ART UNIT PAPER NUMBER

3681

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/080,711

Applicant(s)

ITOU, YOSHIO

Examiner

TISHA D. LEWIS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-15, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 7-9, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The following is a response to the amendment received on October 6, 2003, which has been entered.

#### ***Response to Amendment***

Claims 1-9, 11-17, 19 and 20 are pending in the application in which claims 10 and 18 have been cancelled and claims 19 and 20 are new.

-The 112 2<sup>nd</sup> rejection of claims 1-18 has been withdrawn due to the amendment amending claim 1 to clarify the difference between the system and controller.

-The 102(e) rejection of claims 1-18 has been withdrawn due to the amendment amending claims 1 and 11 which are now patentable over the prior art reference used in the rejection.

-The information disclosure statement filed on October 6, 2003 has been acknowledged.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 11-15, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese patent 2001047890 A (page 6 of translation). As to claims 1 and 11, the Japanese patent discloses a vehicle control having a driven device (14) driven by a drive power source (10),

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a system (engine shutdown) that controls rotating and stopping of the drive power source based on predetermined conditions (shutdown conditions) including whether the system is not allowed to stop the drive power source (shutdown conditions not fulfilled),

the vehicle control having the driven device (14) put into a neutral state to separate the engine and transmission so as to reduce a load on the engine by drag of a torque converter when the system is not allowed to stop the engine and wherein a vehicle halt is judged.

As to claim 2, the Japanese patent discloses the driven device having a power transfer (engine output shaft to transmission drive shaft 16) transferring power from the drive power source to wheels of a vehicle.

As to claim 3, the Japanese patent discloses the reduction in load controlled by reducing torque capacity between rotating members of the transfer device by releasing clutches C1 and C2.

As to claims 4 and 13, the Japanese patent discloses the first rotating member being an engine output shaft, the second rotating member being a transmission drive shaft (16) transferring power from the first rotating member to wheels of a vehicle and a torque converter (12) transferring torque between the first and second rotating members.

As to claims 5 and 14, the Japanese patent discloses a friction force of clutches C1 and C2 controlling torque transfer between rotating members wherein during friction force release of these clutches, the load on the engine is reduced.

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As to claims 6 and 15, the Japanese patent discloses the system not being allowed to stop the drive power source according to an abnormal state of the system (i.e., water temperature of engine being to high).

As to claim 12, the Japanese patent discloses the driven device having a power transfer (engine output shaft to transmission drive shaft 16) transferring power from the drive power source to wheels of a vehicle and the reduction in load controlled by reducing torque capacity between rotating members of the transfer device by releasing clutches C1 and C2.

As to claims 19 and 20, the Japanese patent discloses a vehicle control having a driven device (14) driven by a drive power source,

a system (engine shutdown) that controls rotating and stopping of the drive power source based on predetermined conditions (shutdown conditions) including a battery (equivalent to a generator of a motor/generator to provide power to a power source) coupled to the drive power source,

wherein the vehicle control having the driven device (14) put into a neutral state to separate the engine and transmission so as to reduce a load on the engine by drag of a torque converter when the system is not allowed to stop the engine according to an abnormal state of the system wherein the accumulation of electricity of the battery is low.

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### ***Allowable Subject Matter***

Claims 7-9, 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose or render obvious a motivation to provide for:

-(As to claims 7 and 16) a vehicle control wherein during a state where a system is not allowed to stop a drive power source, a request for operating the drive power source from a drive system other than economy is determined and no request for driving the vehicle by the drive power source is determined.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-9, 11-17, 19 and 20 have been considered but are moot in view of the new ground(s) of rejection.

### **FACSIMILE TRANSMISSION**

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 872-9326 before final and 703-872-9327 after final**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

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Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
the Patent and Trademark Office (Fax No. (703) 000-0000) on \_\_\_\_\_ (Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

\_\_\_\_\_

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

### ***Conclusion***

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on October 6, 2003 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 703-305-0921. The examiner can normally be reached on M-Thur 8 AM TO 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

Tdl  
December 18, 2003

  
Tisha D. Lewis  
Patent Examiner  
AU 3681 12-18-03